IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 4871 OF 2004

Namdeo Kashiram Kamble... ... Petitioner.

Versus

The Hon'ble the Chief Justice,
High Court,Bombay & Ors.. ... Respondents.

Mr. N. M. Ganguli for the Petitioner.

Mr. P. M. Patil, AGP for Respondent Nos.1 to 4.

CORAM : R. M. LODHA &
NARESH H. PATIL, JJ.

DATED : 7TH AUGUST, 2006.

P.C. :

We heard Mr. N. M. Ganguli, Counsel for the petitioner and Mr. P. M. Patil, Assistant Government Pleader, for respondent nos.1 to 4.

2. The petitioner challenges the order dated 25th January, 1999 whereby his appointment as a part-time Sweeper came to be cancelled with effect from 1st September, 1998.

3. The petitioner has not placed on record the copy of

the order of appointment dated 17th August, 1981. However, the respondent nos.1 to 3 have placed the copy of the order of appointment dated 17th August, 1981 on record. That order shows that petitioner was appointed as part-time sweeper on a consolidated pay of Rs.80/- p.m. in the Civil Court, J.D., Radhanagari, Dist. Kolhapur for a period upto 28th February, 1982. That he continued to be in employment as part-time sweeper until 31st August, 1998 is not in dispute. The Counsel for the petitioner submitted that the Court should take judicial notice that in the garb of appointment of part-time sweeper, the petitioner was exploited and asked to work full-time.

4. We are afraid the contention cannot be accepted. It is true that for almost 16 years the petitioner continued as part-time sweeper but there is nothing to indicate that he was ever absorbed as a full-time sweeper. It has to be held, therefore, that he was working as part-time sweeper. It transpires from the reply affidavit that the petitioner remained absent for more than one month and that necessitated the appointment of some other person, namely, Gundu Shiva Dhere as part-time sweeper in consolidated pay of Rs.140/- per month with effect from 7th November, 1998.

Since the petitioner was never employed as a full-time employee, the order dated 25th January, 1999 cannot be said to suffer from any legal flaw warranting interference by this Court in its extra ordinary jurisdiction.

5. Writ petition dismissed in limine.

Sd/-

(R. M. LODHA, J.)

Sd/-

(NARESH H. PATIL, J.)